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# Quarterly Report

April 2011 – June 2011

Effective Rule of Law (EROL) Program

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# Quarterly Report

April 2011 – June 2011

Effective Rule of Law Program (EROL) Program

Submitted July 29, 2011 by:

**Ben Reed**  
**Acting Chief of Party, EROL Program**  
**Address: Enver Maloku 82, Sunny Hill, Pristina**  
**Email: [breed@hecchiconsulting.com](mailto:breed@hecchiconsulting.com)**

[www.hecchiconsulting.com](http://www.hecchiconsulting.com)

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## **Project Overview**

The Effective Rule of Law (EROL) Program contract was executed by USAID and Checchi and Company Consulting, Inc. on 23 March, 2011.

USAID was critical in formulating the Law on the Courts, the Law on the Kosovo Judicial Council (KJC), the Law on the State Prosecutor, and the Law on the Kosovo Prosecutorial Council (KPC), and the EROL program will be engaged in implementing these laws. EROL will take a leading role in restructuring the KJC and its secretariat as well as assisting in the formation of the KPC. EROL will also assist in developing a path over which the KJC and KPC can travel to meet the mandates of the new laws.

To further improve judicial efficiency, EROL will renovate 20 Model Courts, in which both case handling and customer usability are improved, and will also work to reconfigure the court buildings within their existing footprints so that their form follows best practice functionality. EROL will also continue to improve best practices in these, and existing, model courts.

EROL will support the effectiveness of the Ministry of Justice (MOJ) by strengthening its key functional areas: litigation, international legal cooperation and legislation. EROL is also working to support review of the Law on Notaries and has formulated draft amendments thereto, and plans to support the Chamber of Notaries. EROL will also improve the linkages between the Office of the President and the justice sector by working closely with that office to develop the procedures and policies that will control those linkages.

EROL will help the Kosovo Judicial Institute become an efficient, effective, and stand-alone entity providing managed education of uniform and high quality to judges, prosecutors, and court staff, with a focus on developing in-house training skills and training materials. EROL will also strengthen the capacity of the Constitutional Court as judges and their staff are introduced to tools that will help them to engage in research more easily, and to formulate written opinions with increasing clarity and precision.

Finally, EROL will build citizen involvement and confidence through the support of Civil Society Organizations (CSO) that will monitor and report on the justice sector, providing public awareness of real improvement in the justice system - which will, in turn, lead to increased public support of the justice system. Building confidence in minority communities involves challenges and EROL will reach out to these communities in a variety of ways to make sure that they have, and believe that they have, equal access to justice in Kosovo.

## **Summary of Activities: April 2011 – June 2011**

### **Project Start-Up**

Checchi signed the contract for EROL on 23 March 2011, and immediately mobilized the EROL Chief of Party (COP), Robert LaMont, who was resident in Kosovo. EROL then retained and mobilized long-term expatriate advisors Charles Ferrell, Stephen Swanson, and Ben Reed, as well as long-term local advisor Visar Morina. The members of the administrative team were hired

immediately, and all other local technical personnel were identified for hiring by the end of the first quarter.

In-country start-up operations began in April. Much of the first quarter was dedicated to start-up, and the COP identified and leased office space, set up a bank account, and registered EROL under the Checchi and Company Consulting, Inc. registration, rendering the EROL project compliant with Kosovo law. The EROL team engaged immediately in development of the work plan and, together with EROL short-term consultant Keri Culver, the Performance Monitoring and Evaluation Plan (PMEP).

Unfortunately, the initial COP separated from the program; however, Checchi rapidly responded, and is actively recruiting a replacement from its pool of technical experts. A replacement is expected to be fielded no later than 1 September.

### **Problems and Implementation Issues**

**Staffing.** As noted above, EROL's biggest challenge in this quarter was related to staffing the project – replacing the Chief of Party, hiring key personnel, and interviewing and hiring local staff. By the end of the quarter, each of the positions had been filled, or the candidate had been identified. However, this challenge, coupled with unavoidable delay due to the late signing of the contract, led to a slower start than anticipated..

**Office Space.** EROL was unable to find suitable office space immediately due to budget limitations. Instead, the team had to wait until an appropriate space was built out and finished, which took longer than anticipated. However, the space, and all necessary equipment, was ready for work by the first week in June. As stated above, Checchi's office was registered with the Kosovo government during the first quarter.

**Development of Work Plan and PMEP.** With the change of Chief of Party, final development of these documents has been delayed. With the anticipated arrival of the new Chief of Party in September, it is expected that these documents will be addressed as a high-priority, with final submission and approval to come in September or early October at the latest.

**Conduct of Assessments.** The contract specified a rapid assessment in April 2011 to gauge the environment of the stakeholder, legal, and media sectors where EROL will be working. However, as a result of unavoidable delay due to the late signing of the contract, EROL was unable to engage in this assessment. It is expected that the assessment will be completed by the end of October.

### **Summary of Progress**

In addition to project start-up activities, the development of the work plan, PMEP, and implementation time-line – conceptualizing key project objectives and activities, and translating them into an actionable work plan – absorbed the vast majority of the project's technical attention during the first quarter. Developing these documents involved several meetings with key project counterparts and other donor and USAID projects in order to reflect the Project's priorities and

strategic vision. The preparation of these documents, and their ongoing revision, constituted the most important achievements of the quarter.

During the first quarter, the project met with numerous key counterparts across the spectrum of public and private, as well as with other USAID projects and other donor projects. The purposes of these meetings were to introduce the project, announce its presence, and begin development of the cooperative relationships that will translate into an effective and successful programmatic approach to achieving Program goals. The Project immediately pursued technical activities as well, as described below.

## **1. Objective 1: Effective Operations of Justice Sector Institutions**

### **1.1. Kosovo Judicial Council**

The team began its activities in this area with a thorough desk review of pertinent laws – the Law on the KJC, and the Law on the Courts (LOC). After having met, developed professional relationships with, the KJC and its Secretariat, the team began its efforts to develop the Implementation Plan, by means of which the court system will transition from its existing structure to that contemplated by the LOC. Early in May, 2011 EROL hosted the Working Group for the LOC, which is composed of KJC staff and EULEX judges, and facilitated a discussion on the work on the Implementation Plan, and on the Regulation on the Internal Operations of the Courts.

Following this meeting EROL developed an Action Plan for Drafting the Regulation and the Implementation Plan. This Action Plan, with a timeline and responsibilities, was presented to the Working Group for discussion and agreement on how to proceed. It was agreed that EROL would assume the lead role in drafting and consolidating materials for the Regulation and the Implementation Plan. The Working Group and EROL staff met offsite to further develop the Regulation and the Implementation Plan. The group reached a consensus on the course, content, and character of the Regulation on the Internal Operations of the Courts.

In the last week of the quarter short-term consultants, Judge Rich Gebelein and Court Administrator Sam Conti arrived in Kosovo to assist the EROL staff in the continued development of the Regulation and the Implementation Plan for the LOC. The consultants interviewed several persons from the KJC to gather data and information to begin the formulation of the Judicial Assignment section of the LOC Implementation Plan. The LOC by its terms requires the assignment to the new courts of almost all the current sitting judges in Kosovo. The Implementation Plan will be completed early in the second quarter of the EROL program.

### **1.2. Kosovo Prosecutorial Council**

The team has met regularly with the Acting Director of the KPC Secretariat, and in coordination with that office, has developed a set of priority areas of assistance that will support the development of the KPC, including the development of an Implementation Plan similar to that being developed for the KJC. This included both work developing an initial draft for the regulations controlling the structure and staffing of the KPC, and ad hoc development of specific regulations controlling the day-to-day operations of its Secretariat. The team has worked to coordinate its activities with other

international actors, such as the US Department of Justice and EULEX, in order to avoid conflict or overlap in EROL support for the KPC's development, and to multiply the effect of overall support.

### **1.3. Ministry of Justice**

After drafting the Work Plan with input from the Minister of Justice, EROL met with the General Secretary of the Ministry of Justice (MOJ) at the end of the quarter and presented the proposed Year One activities of public policy analysis and development training for the Department for Legal Affairs, Division for Policy and Legislation; training on international legal cooperation for the Department for International Legal Co-operation; and trial preparation and advocacy training for the Department for Legal Affairs, Division for Judicial Litigation. The General Secretary approved the activities and indicated the point of contact for each activity.

### **1.4. Chamber of Notaries**

During the first quarter, the EROL team worked with short-term technical expert Dr. Victor Meijers to develop a critical analysis of the Law on Notaries. Dr. Meijers made recommendations that would resolve the problems with the Law, and these were shared with Kosovar and international counterparts. However, at this time, the team determined that the opportunities for international cooperative engagement in this sector were limited. USAID agreed, and further work has been postponed until the prevailing conditions are more conducive to the team's work.

### **1.5. Office of the President**

During the first quarter, EROL prepared Terms of References (ToR) for the scope of work of the EROL legal advisor. These were requested, and approved, by the President's Office. One function requested in addition to those contemplated in the draft Work Plan was the ad hoc drafting of Presidential decrees, circulars, and other official acts. The team's principal interlocutors in this area have been Ms. Ariana Qosaj-Mustafa, the President's Advisor on Legal Issues, and Mr. Xhafer Tahiri the Director of Legal Department. The team held a retreat with these individuals in June to develop the process of cooperative drafting, and to engage in development of a specific Decree as a test of the process. The retreat concluded with a complete revision of the President's Decree, specifying the principles, criteria and procedures for the President's exercise of the constitutional right to grant pardon. The draft Decree is with President's Office pending approval.

### **Intra-Governmental roundtables on justice-related competencies**

The President's Office requested that EROL draft a circular on the appointment of judges, covering the receipt and review of the proposals on judicial appointments submitted by the KJC. As the appointment process implicates both the President's Office and the KJC, EROL began to compile a list of issues that form the basis for a discussion between the President's Office and the KJC. The team has regularly interacted with both entities, and is working towards the use of this circular as the foundation for its first roundtable.

## **Strengthen the legal review and drafting capacities of the Legal Department**

During the first quarter, the team discussed the training needs for the President's Office with the Director of Legal Department. The Director's primary need is for training on review of legislation, as the President not only acts as a guarantor of the constitutional functioning of the state institutions, but is also entitled to return legislation enacted by the Parliament when that legislation is detrimental to Kosovo's interest or one of its communities.

### **2. Objective 2: Increase the Efficiency of Court Operations**

#### **2.1. Assess and Amend Model Courts Program Standards and Procedures**

During this first quarter EROL reviewed the criteria and procedures used in the ten Model Courts that were implemented under the USAID Kosovo Justice Support Program. The team also reviewed and assessed the nine core standards used in the Model Courts to improve efficiency, transparency and access to the courts, and Model Court public outreach efforts.

EROL developed the materials and agenda for a meeting of the Model Courts Consortium for early July, 2011. The MC Consortium is composed of the ten Model Court Presidents and their Court Administrators and the KJC Engineer. The Consortium will use this meeting to develop recommendations on amending the standards and procedures used in the Model Courts Program based on their implementation of the nine Core Standards.

### **3. Objective 3: Improve Professionalism of Justice System Actors**

#### **3.1. Kosovo Judicial Institute**

During this quarter, EROL met with representatives of the KJI to gather information needed to carry out program activities included in the proposed Annual Work Plan. After a review of KJI needs and EROL capacity to meet those needs, EROL met with the Director of the Kosovo Judicial Institute (KJI) at the end of the quarter and presented the proposed Year One activities. The Director approved EROL technical assistance related to the following activities: (1) five-year strategic plan; (2) Continuous Legal Education Program (CLEP) curriculum assessment with particular emphasis on new courses needed as a result of law changes; (3) Initial legal Education Program (ILEP) curriculum assessment; (4) English language course development and delivery; (5) website design and database enhancement; (6) e-learning course module preparation; (7) development of strategic alliances with other training institutes; (8) best practices training for prosecutor staff and court staff; and (9) training of trainers (TOT) training for instructors.

#### **3.2. Constitutional Court**

EROL met with the President of the Constitutional Court to discuss proposed activities, and the President approved training for legal advisors, a high-level educational conference to be hosted by the Court for constitutional scholars and constitutional court members from other courts, and technical assistance in the preparation of internal operating procedures following the completion by DFID of a case management plan. Subsequently, EROL met with the Chief Legal Advisor to the



Court and prepared a detailed draft agenda for a workshop for legal advisors and researchers focused on issue analysis, legal research, and legal drafting.

#### **4. Objective 4: Increase Citizen Awareness and Role in Ensuring the Delivery of Justice**

During this quarter, the project has continued to engage in desk research on prospective local NGOs in Kosovo working in the justice sector and rule of law, and has built a draft database of the Civil Society Organizations (CSOs) working in justice sector field. In order to more fully develop the projects understanding of potential future partners, their work and project implementation as well as to avoid duplication of future activities funded by the US government and EROL, the project met with representatives of the USG and international organizations that have supported NGO and CSO partners in the field of justice and participatory governance. During the first quarter, the team designed the grants manual to be submitted for USAID approval.

#### **Activities Planned For Next Quarter**

##### **1. Objective 1**

The team will engage in several ad hoc legal reviews that will be allow EROL to keep USAID up-to-date on the legal and policy environment in the justice sector. These include:

- An assessment of the degree and extent to which the Law on the Courts, the Law on the Kosovo Judicial Council (KJC), the Law on the State Prosecutor, and the Law on the Kosovo Prosecutorial Council (KPC) are in harmony with each other, and with the Constitution; and
- A concept paper to USAID on developing a business process model for case tracking, which will both inform the work on the transition of court operations, and lay the groundwork for a functional case tracking and management system.

The team will also work to more clearly define and solve several key issues that have been identified by EROL and the Working Group for the LOC:

- The continuing role, if any, of “lay judges” should be determined and statutory clarification should be drafted; and
- Procedural conflicts between the new laws and the Provisional Criminal Procedure Code and Civil Procedure Code. It is assumed that these conflicts are being addressed by a working group that will, prior to the effective date of the LOC implementation, suggest amendments to the procedure codes to eliminate the conflicts.

##### **1.1. Kosovo Judicial Council**

EROL staff will continue to develop the Regulation on the Internal Operations of the Courts. Staff will also continue to develop timelines and methodologies for the LOC Implementation Plan. The areas for development in the next quarter include:

- Developing a matrix and a time frame that identifies case types for transfer to the appropriate court;

- Working with the KJC Human Resources Department to determine minimum non-judicial staffing requirements for the Court of Appeals;
- Working with the KJC Logistics and Procurement Office to identify material and equipment requirements for the new courts structure; and
- Refining the methodology for implementation of the judicial assignment and reassignment plan for the KJC and the LOC Implementation Plan.

## **1.2. Kosovo Prosecutorial Council**

The team will work with senior members of the KPC Secretariat to draft the Action Plan and timeline that will guide the development of the Implementation Plan, by means of which the various offices under the Office of the State Prosecutor will transition from its existing structure to that contemplated by the Law on the State Prosecutor. The team will also work with the KPC on development of a regulatory structure that defines itself, and on the KPC's Strategic Plan. The team will also provide ad hoc support as needed in drafting regulations, or justifications therefor.

## **1.3. Ministry of Justice**

EROL will follow up with the points of contact identified by the General Secretary and, initially, do an assessment of the training needs of the Department and two Divisions. The assessment will be followed by the preparation of draft training agendas. The training will take different forms. For example, for the Division of Policy and Legislation, the training will likely involve a workshop for the lawyers in the Division, and possibly representatives from the MOJ Department for European Integration and Coordination, on public policy analysis and development, including practical exercises in preparing a concept paper describing the public policy solution recommended to the MOJ for inclusion in the government's legislative agenda. Regarding the Department for International Legal Co-operation, the assessment will determine whether the training needs are in the criminal area or the civil area, and will guide the type of training delivered. Following the approval of detailed training agendas, EROL will prepare STTA SOWs, as determined appropriate, and seek approval of STTAs and other local instructors. EROL plans to deliver the three training programs during the next quarter, if scheduling permits, and if not, at the beginning of the third quarter.

## **1.4. Chamber of Notaries**

EROL will continue to monitor the opportunities for international cooperative engagement in this sector. The team stands ready to re-engage in this area once the chance presents itself.

## **1.5. Office of the President**

The team will organize meetings between technical experts at the Office of the President and the KJC Secretariat to discuss the format and the content of the President's circular on judicial appointments. Once both the President's and KJC Secretariat's staff have come to an agreement on principles and procedures for the appointment of judges, the team will use this experience as the basis to plan an intragovernmental round table involving individuals from government offices with potentially competing interests. The team will also prepare a comprehensive report on the

President's competencies in the area of the justice sector, and will examine the Presidential competencies that indirectly impact the justice sector. The report will also analyze primary and secondary legislation pertaining to the President's competencies, and will identify gaps in this legislation. This report will be useful both for suggesting and drafting measures to address these gaps, and also for identifying opportunities for further intragovernmental roundtables. The team will also work to develop a training course on legislative review.

## **2. Objective 2**

The team will revise the Model Courts standards and procedures, incorporating recommendations of the Consortium at its July meeting. It will also develop criteria for selection of new Model Courts so that, at the next Consortium meeting, six to eight new Model Courts can be selected. Once these new Model Courts are selected and approved by both the KJC and USAID, the team will establish a baseline for each new Model Court to develop Court Improvement Plans for each court, and will identify and assign court improvement teams to work with EROL.

## **3. Objective 3**

### **3.1. Kosovo Judicial Institute**

#### **Strategic Plan**

EROL will prepare a detail outline of a strategic planning process for review by the Director. Following a decision by the Director as to the scope and timing of the strategic planning process, EROL will endeavor to guide the process and assume the task of preparing a draft of the plan. EROL's goal will be to suggest a broader vision of the KJI to include participation by government lawyers and members of the Chamber of Advocates, and to exercise greater quality control over training programs offered by international partners. Subject to approval by the Director, EROL will endeavor to prepare a draft of the five-year strategic plan by the end of the next quarter.

#### **CLEP Curriculum Assessment**

EROL will complete a formal assessment of the CLEP during the next quarter. The assessment will set forth general recommendations for improvement of the CLEP, including the broadening of the program to include participation by government lawyers and Chamber of Advocates members; the use of a standard format for program materials produced by international partners delivering training programs through the KJI; and the development by the KJI of courses in core areas, such as obligations, real property, and criminal law and criminal procedure, that can be offered year after year, and that are based on course materials that can also act as desk reference manuals for sitting prosecutors and judges. Based upon the Director's request, the assessment will also include recommendations for particular course topics that are directly responsive to changes in practice that will be occasioned by the implementation of the LOC and other proposed substantive laws.

#### **ILEP Curriculum Assessment**

Based upon the request of the Director, a formal assessment of the ILEP will follow the assessment of the CLEP. During the next quarter, EROL will prepare an SOW for a curriculum development

advisor to perform the assessment, and an STTA will be identified and submitted for approval. The assessment will be completed during the third quarter.

### **English Language Course**

The KJI wishes to establish an English language course, with a focus on legal English, that can be offered to non-English speakers participating in its ILEP and CLEP. EROL will assist the KJI in developing a sustainable English language course. The course will involve three modules: one module to teach proficient English speakers identified by the KJI how to teach non-English speakers, using a recognized training of trainers (TOT) methodology; a second module to teach basic English to non-English speaking professionals, using a recognized English as a second language (ESL) methodology; and a third module to teach the graduates of the basic English course the fundamentals of legal English. EROL will explore the possibility of collaborating with the SEAD program, which is planning to support a legal English course as part the University of Pristina Law Faculty's LL.M program. Next quarter, EROL will prepare an SOW for an English Language Expert to develop and deliver the three course modules, and select an STTA to be submitted for approval. Upon final approval by the KJI, the first module will be delivered next quarter, and the remaining two modules in the third quarter.

### **Website Design and Database Enhancement**

Next quarter, EROL's website design and information technology expert will work with his counterparts at the KJI to design a new website and an improved course participant database. The website will be designed in a way to provide additional information to legal system professionals and to permit course applications and evaluations to be done on line. The website will also provide easy linkage to the e-learning platform that is available to the KJI. EROL will undertake improvements to the KJI course participant database to facilitate data collection, input, and retrieval. The new website and the database improvements will be accomplished during the next quarter.

### **E-learning Course Module**

Next quarter, EROL will assess the utility of the KJI's current e-learning platform, and the inclusion of a link to the platform on the new website. Following that assessment and the completion of the new website, EROL, in the third quarter, will prepare a model e-learning course for testing on the website.

### **Development of Strategic Alliances**

The KJI seeks to develop strategic alliances with other training institutes. Next quarter, EROL will support this effort by conducting an assessment of training institutes in the region and in Europe to determine similarities and dissimilarities to the KJI and to the justice system framework of Kosovo. EROL will present the results of this assessment to the KJI and support the KJI in establishing alliances with similar institutes.

## **Best Practices Training for Prosecutor Staff and Court Staff**

During the next quarter, as part of the CLEP curriculum assessment, EROL will propose a training program for the nine senior court administrators, one Supreme Court, one Court of Appeals, and seven basic courts, foreseen by the LOC, as well as for the supervising court administrators of the branch courts and departments. The training will focus on core competencies, including human resources, budgeting, case management, public outreach, and code of conduct. In addition, following a review of the OSCE court monitoring reports, EROL will assess the need for best practices training for court staff and prosecutor office staff, and make a recommendation to the KJI for the inclusion of court staff and prosecutor office staff training courses in the CLEP. Curricula and course materials for these programs will be developed by EROL during the third quarter.

## **Training of Trainers (TOT) Training**

KJI has decided to defer any TOT training for CLEP and ILEP instructors until after instructors are selected during the third quarter. Therefore, EROL's support for TOT training will be delayed until the third or fourth quarters.

## **3.2. Constitutional Court**

### **Legal Advisor Training Workshop**

This quarter, EROL will complete the agenda for the legal advisor training workshop and will identify instructors for the various parts of the program. EROL anticipates that the workshop will be delivered in three sessions, the first consisting of an interactive presentation of information over 1.5 days, a second one-half day session to review and discuss a drafting exercise assigned at the close of the initial session, and a final one-half day session to review and discuss a second drafting exercise assigned at the close of the second session. Once instructors are identified, the workshop agenda will be presented to the President of the Court for review and approval. The workshop will be delivered during the next quarter, or the third quarter, depending on participant and instructor availability.

### **Constitutional Court Conference**

Next quarter, EROL will begin the initial planning of the Constitutional Court conference, and will present those ideas to the President for review and concept approval. Given the extensive planning and logistics involved in the presentation of a high-level educational conference, EROL anticipates that the conference will be held in the fourth quarter.

### **Internal Operating Procedures**

Next quarter, EROL will meet with other international agencies that are working with the Court on a case management plan to achieve a better understanding of the scope and timing of the plan. Based upon the information gleaned from the representative, EROL will meet with the President of the Court to seek more direction on the type of technical assistance being requested of EROL.

#### **4. Objective 4**

The project will continue to expand the database with information of prospective NGOs working in the justice sector, and will submit its grants manual to USAID for approval. The team anticipates bringing in a short-term technical expert to design the documents that will guide and support the grant-making or subcontracting activities and procedures, and to prepare strategic guidance for the grants committee to assist it in qualitative measurement of quantitatively similar grants. The consultant will support the project with the following tasks:

- Defining and coordinating the execution of internal operational procedures and controls for the efficient management of grants awarded through the EROL Program;
- Developing guidelines for conducting an initial assessment of the institutional capability of potential NGO partners to implement grant projects; and
- Interviewing a selection of key NGOs to appraise possible linkages between their technical areas of expertise and the objectives of the Strategic Activities Fund, and to develop a format and draft an initial Request for Application for submission to USAID for approval.
- The NGO assessment tool for potential grantees and a Request for Application to conduct a first round of grant proposals review and award will be delivered.

A first request for application for CSOs is expected to be launched during next quarter.